

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

M2 CONSULTING, INC.

Plaintiff,

v.

C.A. No. 03-12589-GAO

MRO SOFTWARE, INC.

Defendant.

**MRO SOFTWARE, INC.’S *ASSENTED TO* MOTION TO MODIFY
THE SCHEDULING ORDER**

Defendant MRO Software, Inc. (“MRO”) hereby submits this motion requesting the modification of the existing Scheduling Order (“Scheduling Order”), entered on December 1, 2005. MRO seeks a modification of the Scheduling Order’s deadlines with respect to expert discovery only.

Pursuant to Local Rule 7.1, MRO’s counsel conferred with counsel for M2 Consulting, Inc. (“M2”) on February 28, 2006 concerning the issues raised in this motion. During this conference, M2’s attorney assented to MRO’s request to modify the Scheduling Order as set forth below.

Based on the factual record in this case, MRO intends to use two expert witnesses: one to testify about damages, and the other concerning M2’s alleged confidential information and/or trade secrets.

As grounds for this motion, MRO asserts that changes to the Scheduling Order are necessary to permit MRO to prepare and submit the reports of its expert witnesses. Although January 31, 2006 was the deadline for the completion of fact discovery in this

case, the parties reached an informal agreement concerning several depositions that were noticed before this deadline and have not been completed as of the date of this motion. One such deposition is MRO's Rule 30(b)(6) deposition of M2 Consulting concerning its alleged trade secrets. Since MRO intends to rely on a separate expert witness (and report) regarding M2's trade secrets, any testimony by M2's Rule 30(b)(6) designee about its alleged trade secrets will have a profound effect on MRO's expert report on this subject. Moreover, a dispute has now arisen between the parties concerning this deposition and, as MRO learned during a discovery conference held on February 28, 2006, M2 intends to file a motion for a protective order in this regard. Based on the dispute related to this Rule 30(b)(6) deposition concerning M2's trade secrets and other delays in the case, MRO requests additional time to prepare and submit its expert reports.

Accordingly, MRO requests that the Court modify the Scheduling Order as follows:

- Change the deadline for MRO's expert report concerning damages, to April 28, 2006;
- Modify the deadline for filing MRO's expert report regarding M2's alleged confidential information and/or trade secrets, to 30 days following the conclusion of MRO's Rule 30(b)(6) deposition of M2 Consulting regarding this topic; and
- Move the deadline for the completion of depositions of both parties' expert witnesses to 30 days following the last deadline for MRO's expert witness report (whether it be April 28, 2006, or thereafter).

Under the existing Scheduling Order, MRO's expert reports are due by March 30, 2006 and the deadline for completing all expert witness depositions is April 30, 2006. (See December 1, 2005 Scheduling Order).

For the reasons set forth above, MRO requests that this *assented to* motion be allowed and the Scheduling Order be modified as provided herein.

MRO SOFTWARE, INC.,

By its attorneys,

/s/ Kurt Bratten

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Date: February 28, 2006

Local Rule 7.1 Certificate of Compliance

Counsel for the Defendant hereby certifies that, on February 28, 2006 at approximately 11:00 am, pursuant to Rule 7.1(A)(2) of the Local Federal Rules of Civil Procedure, he (1) has conferred with counsel for the Plaintiff regarding the attached Motion, and (2) has attempted in good faith to resolve or narrow the issues presented. During this conference, counsel for the Defendant assented to the relief requested herein.

/s/ Kurt Bratten

Kurt Bratten